

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE NO. 76 OF 1994

For Approval of Signature :

Hon'ble MR. JUSTICE B.C. PATEL and
MR. JUSTICE R.R. JAIN

1. Whether Reporters of Local Papers may be allowed
to see the judgments ?

2. To be referred to the Report or not ?

3. Whether Their Lordships wish to see the fair copy
of the judgment ?

4. Whether this case involves a substantial question
of law as to the interpretation of the
Constitution of India, 1950 or any Order made
thereunder ?

5. Whether it is to be circulated to the Civil
Judge ?

Appearance :

M/s.M.R. Bhatt & Co., Advocates for the Applicant.
Respondent Served.

Coram : B.C. Patel & R.R. Jain, JJ.

Date of Decision : 11th July, 1996

Oral Judgment : (Per B.C. Patel, J.)

At the instance of the Revenue, the following
question is referred to this Court under Section 256 (1)
of the Income Tax Act, 1961 :-

"Whether, on the facts and in the circumstances
of the case and in law, the ITAT, Ahmedabad was
justified in confirming CIT(A), Surat's Order and
in directing the ITO to allow depreciation and
investment allowance on the total cost of assets
without deducting therefrom the amount of subsidy
of Rs. 54,473/- received by the assessee from the
Government to arrive at the 'Actual Cost' of the
assets, as provided for u/s. 43 (1) of the I.T.
Act ?"

2. The Tribunal decided the controversy following the decision of this Court in the case of CIT Vs. Grace Paper Industries Pvt. Ltd. reported in (1990) 183 ITR 591. This case is also covered by the decision of the Apex Court in the case of CIT Vs. P.J. Chemicals, reported in 210 ITR 830. Hence, the question is required to be answered against the Revenue and in favour of the Assessee. Accordingly, we answer the question in favour of the Assessee and against the Revenue. This reference is disposed of accordingly with no order as to costs.
